



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/881,410 | 06/14/2001 | Byron Y. Yafuso | QCPA235 | 8490 |

7590 12/30/2002

Sarah Kirkpatrick Manager
Intellectual Property Administration
Qualcomm Inc
5775 Morehouse Drive
San Diego, CA 92121

EXAMINER

TON, DANG T

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2666

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,410

Applicant(s)

YAFUSO ET AL.

Examiner

DANG T TON

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22 is/are allowed.
- 6) ☒ Claim(s) 23-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2666

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-26,28-34, and 36-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norris et al (6,353,611) in view of Sigler et al (5,717,830).

For claims 23-26,28-34, and 36-44, Norris et al disclose a call waiting feature for a telephone line connected to the internet comprising the steps of transmitting a data frame (using the internet); transmitting voice frame subsequence to the data frame (forwarding a telephone call to the subscriber request to do so without terminating the internet); transmitting a second data frame (resuming the internet); initiating a voice frame (connecting the telephone call); the second

Art Unit: 2666

data frame being directed to a private network (internet network); switching the mode of the operation (see box 25).

Norris et al. disclose all the subject matter of the claimed invention with the exception of using a push to talk (PTT) frame and wireless in a communications network. Sigler et al. from the same or similar fields of endeavor teaches PTT and releasing PTT and the wireless. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use PTT and wireless network as taught by Sigler et al. in the communication network of Norris et al. for the purpose of alternating modes of the communication using voice or data frame and making the system more reliable

3. Claims 27 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norris et al in view of Sigler et al. as applied to claims 23 and 29 above, and further in view of Paneth et al(6,393,002).

For claims 27 and 35, Norris et al. and Sigler et al disclose all the subject matter of the claimed invention with the exception of encrypting messages and vocoder in the network. Paneth et al. from the same or similar fields of endeavor teaches a provision of the vocoder and encrypted messages(see details of figure 2). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the encrypted messages and vocoder as taught by Paneth et al. in the communications network of Norris et al. and Sigler et al. for the purpose of securing and adapting the network.

4. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

5. Claims 1-22 are allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T TON whose telephone number is 703-305-4739. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 703-308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

D. Ton
December 20, 2002


DANG TON
PRIMARY EXAMINER